DIRECTIONS. Group the handle, as shown in the cut; drive it sharply into the ground always striking it; the same place, or near it, until the earth sticks in the cylinder; rules it out and drup it on the ground address, holding the familie in the hand, and the earth will full out. This THEM!

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Assortment of

Triple Plated Silver Ware

Ever Offered in this Market,

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FOR SALE AT A VHRY LOW FIGURE,

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Eastern Pine Sugar Shooks WILL BE SOLD

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To make room for new goods expected per

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WHALE BOATS AND BOAT STOCK GROCERIES, Flour & Bread! Lime and Cement,

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HAWAIIAN GAZETTE

. AN INDEPENDENT JOURNAL, DEVOTED TO HAWAIIAN PROGRESS.

PUBLISHED AND EDITED BY HENRY M. WHITNEY.

WEDNESDAY, AUGUST 9.

Supreme Court of the Mawallan Is lands-July Term, 1876. REX vs. F. T. LENEHAN. HARRIS AND JUDD J. J. Appeal from Police Court.

On the second day of June last, the defendant was convicted in the Police court of Honolulu of the offense of selling and giving intoxicating liquors to natice Hawaiians at a place called the "Royal Hotel," he being at that time a licensed retailer and be was fixed \$300. He appealed to the Sapreme Court in better on the following points of law-1. There was no legal evidence adduced before the Mugistrate of the fact charged, that defendant held a license to vend spirituous liquor at retail at the time of the alleged sale to native Ha-

OPINION BY JEDD, J.

2. There was no legal evidence that the percons to whom the liquor was sold were native Ha-

waltuns. On the first point.—The magistrate certifies up. that the Chief Clerk of the Interior Department testified that he delivered a retail spirit license to defend and to the defendent on the 26th of January 1876, for the "Rayal Hotel" and he produced the application of the defendant for the same, the bond filed by him and a copy of the license issued. The introduction of the copy of the license was objected to, whereupon the crown prosecutor gave notice to the defendant to produce the original. To to the defendant to produce the original. To which defendant made the objection that the notice to produce was not made in time.

The magistrate ruled that the notice was in

time as defendant was presumed to be in posstarion of his incense and that unless the original was produced he should admit the copy in evidence. Original was not produced and the copy was admitted.

It was not necessary for us to decide in this case, whether the production of the original libest evidence of the fact that defendant was at the time of the alleged sale a licenseal vender of spiritagus liquors. If the record required by law England for centeries. This old practice with some to be kept, to wit: the book of buenses designashown of a license granted to defendant, his place of abode, the character of the license, the smount paid, and the date, it would have been sufficient evidence of the fact that defendant then held such a beense, if the year since granting his license had not expired. 3 Pick. 280-19 Pick. 396. 12 Cash. 502.

In this case, however, the clerk of the Interior

The Largest and most Elegant whether a notice is reasonable or not is a question apon which the court must exercise a sound diserction in reference to the circumstances of the Wend, 505.

The nature of this action would naturally aprise fatter of this action would intrinsive apprise the defendant that the government would in the procession of the license or that proof would be offered that such a draws from the prisoner all the information be is will draws from the prisoner all the information be is will draws from the prisoner all the information be is will draws from the prisoner all the information be is will draws from the prisoner all the information be in the prisoner all the information be in the prisoner all the information be in the prisoner all the prisoner all

Pickle Castors, Goblets & Cups, gilt Suitable for childdren. was offered him to produce the original which we must inter he declined to avail himself of, as the magistrate notes "original not produced." Under the circumstances, therefore, a delay of only say five minutes would have been necessary to enable the defendant to produce the ficense, and Vases in Fine Bohemian Cut Glass notice early to the trial was sufficient in this case, no disposition being shown by defendant of a

sullinguess to produce it.

On the second point. The magistrate took the testimony of the several persons to whom the quor was sold who swore that they were native Hawaiiane born in this kingdom. But the mag-istrate had also the appearance of the witnesses to guide him in judging of their nationality, to wit: their complexion, language &c., and we can-not presume that the only evidence which led him to the conclusion that they were native Ha waiians was the statement of each individual that they were such.

For this reason it is not necessary to rule upon the question as to whether the birth place of a person can be proved by his own statement. Rogers' Fine Triple Placed Forks, Spoons and Eniver. The largest Assortment of The appeal is dismissed. The Attorney-General for the crown, A. S.

Hartwell and E. T. O'Halloran for defendant. CHAS. C. HARRIS. Justices Supreme Court.

Honolula, July 31, 1876. Supreme Court of the Hawalian Is-

lands .- July Term 1876. AWA (chinaman) vs. J. KAMIO, ADMIN-ISTRATOR,

IN BANCO. OPINION BY HARRIS, J.

The first ground of exception is that the defendant had jodgment at this term of the Cours in another action in which the plaintiff claimed a sum of money, being half of the proceeds of an awa crop, said to belong to him and the deceased

man Aniani as partners. Shelf Hardware, Glass Ware, Tin Ware This suit was in the nature of an action for the conversion of partnership goods, over which the plaintiff averred that he had a right as a partner. He might have claimed the whole goods, as well as a half of them, if he had chosen. The whole question raised was partnership or no partnership. Under the allegations and proofs, if he were a partner be was entitled to recover without abatement and would have been entitled to recover, if he had claimed the whole of the crop. If he did not show himself to be a partner under the allegations and proofs in the first action, he would not be entitled to recover anything. The jury was so instructed and found that he was not

In this action the plaintiff accepts the first ver dict as conclusive, and brings his action claiming a quantum mernit for work and labor done by him for the benefit of Aniani and his estate. This is clearly a different cause of action cer tainly not adjudicated in the first suit. Therefore the first exception is overruled.

On the second point of exception we are of opinion that Ali's testimony of what he was paying on a rice plantation was admissible. The planting of rice as well as of awa is an ag cultural operation and required a like kind of lat bor. One might as well say that hosing corn and moving grass, or planting potatoes and plant-ing wheat were not similar employments.

Upon the third exception, the concluding in-

struction of the court to wit :- That the jury would find for the side on which the evidence preponderated, was all that the defendant could With regard to the last exception, namely the

introduction of the Chinese account book, to show what had been done with some money which appeared during the trial to have been received by the plaintiff for the sale of some awa. It is sufficient to say that there was no notice of set off given by the defendant, and the whole question of the money received for awa was therefore not in issue. It having transpired in the course of the testimony that a sum of money had been received, it neither harmed nor benefitted one side or the other to continue to show what had become of it.

Exceptious overruled and plaintiff may have

Ca-tle & Smith for plaintiff, A. S. Hartwell CHAS. C. HARRIS, A. FRANCIS JUDD. Justices Supreme Court.

Honolula, July 31, 1876.

Shall Prisoners Testify?

A bill fixing rules of practice in regard to evidence, and which includes a provision allowing parties to testify in both civil and criminal cases has been introduced in the Legislative Assembly and is now under discussion. In 1872 a bill with a similar provision was defeated probably on account of the proposed reform in criminal practice. There is but little doubt but that a bill for allowing parties in civil cases to testify would have passed if it had been offered by it self. Again are these two somewhat distinct and radical reforms proposed in one bill. It may be said that the principles of both kinds of cases are the same. yet although this is largely true, the circumstances of the application of these principles are so widely different in criminal cases from what they are in civil cases, that it is impossible to do justice to the question of the proposed change in either case when combined with the other in one motion. The question of allowing a prisoner to be a witcess

for himself, is one of great importance, not only to the public but to parties themselves, and cannot be safely left to follow the settlement of the similar question in The bill provides for the prisoner to be a witness for himself or not, as he or his counsel decides is most prodent, and contains a warning clause that his refus-

al to testify shall not be construed against him. This pian has at first sight the appearance of great plausibility, but on examination we find strong reasons to doubt its policy. It is bardly a practical matter to make a witness in his own case out of a prisoner. As a rule, the majority of prisoners are guilty of the of-fences charged, and the proposed change gives to a class of men who are notoriously without principle or conscience, the strongest temptation to perjury, which they would not be slow to take advantage of. court from unfavorable impressions. They could not help such impressions if they tried, and this fact is snow White Zinc, Eastern Brooms, Putty, enough in itself to condemn the proposed change in A large Assortment of Chimneys, Common, Clipper, eriminal trials, especially as the opposing advantage is only testimony that generally the jury will not be-

present system is imperfect and needs modification, but not in the way proposed. Unprofessional think-ers will ensily see the hardship of sealing the tongnes of those who of all others are best informed and most able to clear up the apparent contradictions of exi-dence frequent in crimical cases. But how shall this be broug: I about if prisoners are not to be introduced modifications, contains the solution to this question ted in sec. 28 of chapter 41 of the Penal Code.

The proceedings would be something as follows:—At the preliminary examination after the evidence against the prisoner is taken and before committat, he is questioned. tioned by the committing judge in open court on the evidence against him, the questions and answers being recorded in full and sent up with the depositions.

"At the trial." says Fitz James Stephens who has A LARGE ASSORTMENT OF treated clearly and fully on this subject in his masterly work on the criminal laws of England. "I think the counsel for the crown ought to interrogate the pris-oner at the end of his case and before the prisoner's

Department produced the bond filed by defendant, and the copy of the license required by the statute form of the bond to be annexed to the bond. (See sec. 26, chap. 41, Penal Code, and this would seem to be sefficient.

But it is contended that the notice to produce the original license was not reasonable. Now whether a notice is reasonable or not is a question. ly protect him against anything of this sort on the part of the counsel for the crown, but no one could protect him against the judge." The prisoner would not be compellable to answer, but would 3 Wend. 296, 7 Cow. 739. 7 Wend. 216, 13 reply to what questions he chose. I think it will be readily seen that such a system would favor the acquittal of the innocent and the conviction of the guilty. cense or that proof would be offered that such a license had been issued to him. The demand for it then could not have surprised defendant. The court notices also that the place of business, where this license authorized the vending of spirituous liquors, is described in the bond produced as the "Royal Hotel," corner of Merchant and Nunanu streets, Honolula, being in the square adjoining the police court. This was quite accessible to the defendant and an opportunity was offered him to produce the original which we must infer be declined to avail himself of, as the

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vering use the disease was a second time subduced. But this war in most agravated and severe case, and it took all the virtues of the Remedy combined with care and time, to cradicate the effects of the disease. But through a persevering use of it a permanent care was effected, and he resumed his active out-of-door occupation, within a short time, a well man. This was the manner in which the Remedy was brought into notice, and since then for a period of twenty five (25) years the medicine has been prepared after the same approved formula by Mrs. Hunt, and used by our first physicians in their private practice, for this and similar compilators.

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